

Report on the
State Pilotage Commission
Mobile, Alabama



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October 19, 2011

Senator Paul Bussman
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Senator Bussman,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Alabama State Pilotage Commission** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Alabama State Pilotage Commission**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones
Chief Examiner

Examiner
Christine Kilpatrick

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PROFILE

Purpose/Authority

The State Pilotage Commission was created by Act No. 81, *Acts of Alabama 1931*, to license and regulate the piloting of all ships and watercrafts into and out of the waters of Mobile Bay, Mobile River, and all tributary streams flowing into Mobile Bay and Mobile River. The commission licenses (branches) bar pilots and determines the qualifications of applicants to be apprenticed and branched. Current statutory authority for the board is found in the *Code of Alabama 1975*, Section 33-4-1 through 33-4-57.

<u>Characteristics</u>	
Members and Selection	3 members appointed by the governor (member serves until a successor is appointed). <i>Code of Alabama 1975</i> , Section 33-4-1 and 33-4-3
Term	6 years <i>Code of Alabama 1975</i> , Section 33-4-3
Qualifications	Citizen of the United States and qualified elector of Alabama <ul style="list-style-type: none">• One member must be an active bar pilot licensed by the commission.• One member must be a businessman or in a professional occupation licensed by the state of Alabama.• One member must be an official of a steamship company located in Mobile. <i>Code of Alabama 1975</i> , Section 33-4-1 and 33-4-2
Racial Representation	No statutory requirement No minority race representation
Geographical Representation	One commissioner must be an official of a steamship company in Mobile. <i>Code of Alabama 1975</i> , Section 33-4-1
Consumer Representation	No statutory requirement No consumer representation
Other Representation	No statutory requirement

Compensation	<p>The commissioners serve without compensation. Traveling expenses are reimbursed at the same rate as for state employees.</p> <p><i>Code of Alabama 1975</i>, Section 33-4-3</p>																				
<u>Operations</u>																					
Chief Executive Officer	<p>The commission’s chairperson is the commission’s chief executive officer, and by law is tasked with supervising the official conduct of all officers and employees of the commission. The chairperson, who is elected by the commission, may not hold the bar pilot slot on the commission.</p> <p><i>Code of Alabama 1975</i>, Section 33-4-5</p>																				
Location	<p>Building 50, Room 114 Alabama State Docks Boulevard Mobile, AL</p>																				
Examinations	<p>The commission prepares and administers a written examination. A committee who are required by law to be “three fair, impartial and competent nautical men”, reviews the answers and makes comment as to whether the answers are satisfactory. The applicant may name one of these, the existing pilots name another, and the commission names the third member of the committee.</p> <table><tr><td>Year</td><td>2007</td><td>2008</td><td>2009</td><td>2010</td></tr><tr><td>Exams</td><td>1</td><td>1</td><td>1</td><td>1</td></tr><tr><td>Pass</td><td>1</td><td>1</td><td>1</td><td>1</td></tr><tr><td>Fail</td><td>0</td><td>0</td><td>0</td><td>0</td></tr></table> <p>Source: Jackie Buettel, secretary</p> <p><i>Code of Alabama 1975</i>, Section 33-4-34(7) and 35</p>	Year	2007	2008	2009	2010	Exams	1	1	1	1	Pass	1	1	1	1	Fail	0	0	0	0
Year	2007	2008	2009	2010																	
Exams	1	1	1	1																	
Pass	1	1	1	1																	
Fail	0	0	0	0																	
Licensees	<p>14 licensed (branched) bar pilots 4 applicants in the Training Division who are apprentices.</p> <p>Source: Jackie Buettel, secretary as of June 30, 2011</p>																				
Reciprocity	<p>No statutory provision.</p>																				

Renewals	<p>An annual privilege tax of \$100 must be paid to the State Pilotage Commission by each pilot in order to continue as a pilot. Also, the commission may assess the pilots such additional amounts as the commission may need to fund its operations. Failure to pay the privilege tax or assessment does not of itself cause a license to lapse, but nonpayment becomes noncompliance with the licensing law and is therefore grounds for the commission to revoke or suspend the license.</p> <p>Online renewal is not available.</p> <p><i>Code of Alabama 1975</i>, Section 33-4-38 and 41</p> <p>Before receiving his branch, the pilot must make and deliver to the commissioners a bond payable to the chairman of the commission and his successors, in the penal sum of \$2,000.00, with surety to be approved by the commissioners, and with conditions faithfully to perform his duties as pilot; and this bond must be renewed every six years</p> <p><i>Code of Alabama 1975</i>, Section 33-4-39</p>
Continuing Education	None required by statute
Employees	The commission employs one employee (secretary) under contract at \$1,650/month. The contract amount is set by the commission. The secretary has no specific office hours and works on an “as needed basis.”
Legal Counsel	Jeffery Harley, a private attorney hired under contract
Subpoena Power	<p>Yes (witnesses) in connection with disciplinary proceedings to revoke or suspend a license.</p> <p><i>Code of Alabama 1975</i>, Section 33-4-41</p>
Internet Presence	None
Attended Board Member Training	No employees or commissioners have attended in the past four years.
<u>Financial</u>	
Source of Funds	Privilege taxes, fees, and assessments – licensed bar pilots may be assessed any reasonable additional amount necessary for the performance of commission duties.

State Treasury	Funds are maintained in a bank account. <i>Code of Alabama 1975</i> , Section 33-4-6
Required Distributions	None
Unused Funds	The commission retains any year-end balance. <i>Code of Alabama 1975</i> , Section 33-4-38

SIGNIFICANT ISSUES

Significant Issue 2011-01

The bar pilot member of the commission will retire as a bar pilot in October 2011 upon reaching the mandatory bar pilot retirement age of sixty-eight and has also resigned from the commission. The governor has yet to replace the member. The Senate is not required to confirm the appointment.

The *Code of Alabama 1975*, Section 33-4-53, “Every bar pilot licensed and branched by the Pilotage Commission upon reaching the age of 68 shall be required to retire and surrender his license or branch to the Pilotage Commission.”

The *Code of Alabama 1975*, Section 33-4-1 provides that, “There shall be a board of pilotage commissioners, to be known as the State Pilotage Commission, which shall consist of three members, one to be an official of a steamship company which maintains an office in Mobile, *one to be an active bar pilot, licensed and branched by such State Pilotage Commission*, and one to be a business man or in a professional occupation licensed by the State of Alabama.”

Significant Issue 2011-02

The commission, by law, is limited to paying subpoenaed witnesses \$1.50 per day and .05 a mile to and from hearings. The commission’s enabling statutes allow the subpoena of witnesses in Section 33-4-41. Section 33-4-42 states, “On the failure to answer such subpoenas when so served, such witness shall forfeit the sum of \$50.00, for which the said commission may, in its own name, bring a civil action in a court of competent jurisdiction.” The *Code of Alabama 1975*, Section 33-4-43 states, “Such witnesses shall be paid the sum of \$1.50 a day during their attendance upon such commission at such hearing, and \$.05 a mile for each mile traveled in going from their place of residence to the place of hearing and \$.05 a mile for returning.” This provision has remained in the commission’s enabling statutes without change since 1931 and is not consistent with payments to subpoenaed witnesses by other state agencies.

In 1991, the Examiners of Public Accounts responded as follows to an inquiry by the Attorney General as to the proper method of reimbursing witnesses subpoenaed by the Attorney General. “*Code of Alabama 1975*, Section 36-7-21, providing for allowances for persons traveling outside the state, authorizes the payment of actual and necessary expenses as well as the actual expenses for transportation. Therefore, it is reasonable that any witness traveling outside their state of residence to testify for the State of Alabama should be paid .their actual and necessary expenses as well as the actual expenses for transportation. Given the high cost of interstate travel, the failure of the state to

properly reimburse a witness compelled to testify via subpoena might arise to a deprivation of property with those attendant problems. As to instate travel, the provisions of Section 36-7-20 [which addresses reimbursement of travel expenses to state employees and others traveling in the service of the state] offer guidance.” The Examiners of Public Accounts continues to advise state agencies of this position when the matter is at issue.

Significant Issue 2011-03

With the expected future increase in port usage and tonnage and the imminent retirement of one of the present bar pilots, the commission may be faced with increasing the number of bar pilots it branches. According to the commission’s secretary, there are 4 applicants, all of which are in apprenticeship in the ‘training division’. No applicants are currently in the ‘ready division.’ Applicants in the ready division are qualified for immediate branching (licensing), if accepted by the commission. The “ready division” consists of applicants who have completed all required training, have passed the examination, and continue to train only to keep current while waiting for a bar pilot position to become vacant.

As stated in Significant Issue 2012-02, one of the current pilots will be required by law to retire in October of his year, leaving the number of branched pilots at 13. The presence of a new and larger turning basin [an open area at the end of a canal or narrow waterway to allow boats to turn] becomes another factor in the need for additional pilots. The original turning basin was too small to accommodate larger ships. The new basin is able to accommodate larger ships, and vessels whose length is greater than 850’ or 135’ in beam. These ships require two pilots on the turning leg of the ship’s journey, according to safety guidance provided by the Mobile Bar Pilots, LLC. According to the minutes of the commission’s January 13, 2011 meeting, Mobile’s new turning basin was added to the simulator of the pilot training facility in Covington, Louisiana. The facility stated that, “In the opinion of this training facility, it would be asking pilots to pilot a ‘career-ending move’ with just one pilot.”

STATUS OF PRIOR FINDINGS

All prior findings/significant issues have been resolved, except for the following:

Finding 2005-01

The commission procured the services of its attorney without regard to the requirements of state law, and did not submit a contract for the attorney’s services to the Contract Review Permanent Legislative Oversight Committee, as required by law.

The *Code of Alabama 1975*, Section 41-16-72 states that, “Any other provision of law notwithstanding, the procurement of professional services by any agency, department, board, bureau, commission, authority, public corporation, or instrumentality of the State of Alabama shall be conducted through the following selection process:

(1)a. Except as otherwise provided herein, attorneys retained to represent the state in litigation shall be appointed by the Attorney General in consultation with the Governor from a listing of attorneys maintained by the Attorney General. All attorneys interested in representing the State of Alabama may apply and shall be included on the listing. The selection of the attorney or law firm shall be based upon the level of skill, experience, and expertise required in the litigation and the fees charged

by the attorney or law firm shall be taken into consideration so that the State of Alabama receives the best representation for the funds paid. Fees shall be negotiated and approved by the Governor in consultation with the Attorney General. Maximum fees paid for legal representation may be established by executive order of the Governor.

b. Attorneys retained by any state purchasing entity to render nonlitigation legal services shall be selected by such entity from a listing of attorneys maintained by the Legal Advisor to the Governor. All attorneys interested in representing any purchasing state entity may apply and shall be included on the listing. The selection of the attorney or law firm shall be based upon the level of skill, experience, and expertise required for the services, but the fees charged by the attorney or law firm shall be taken into consideration so that such state entity shall receive the best representation for funds paid. Fees for such services shall be negotiated by the state entity requiring the services and shall be subject to the review and approval of the Governor or the Director of Finance when so designated by the Governor.”

The *Code of Alabama 1975*, Section 29-2-41.2(b) states that, “Notwithstanding any other provisions of this article, all contracts for employment of an attorney to provide legal services, including contracts involving an attorney providing legal services under an agreement with the Attorney General, shall be reviewed by the committee.”

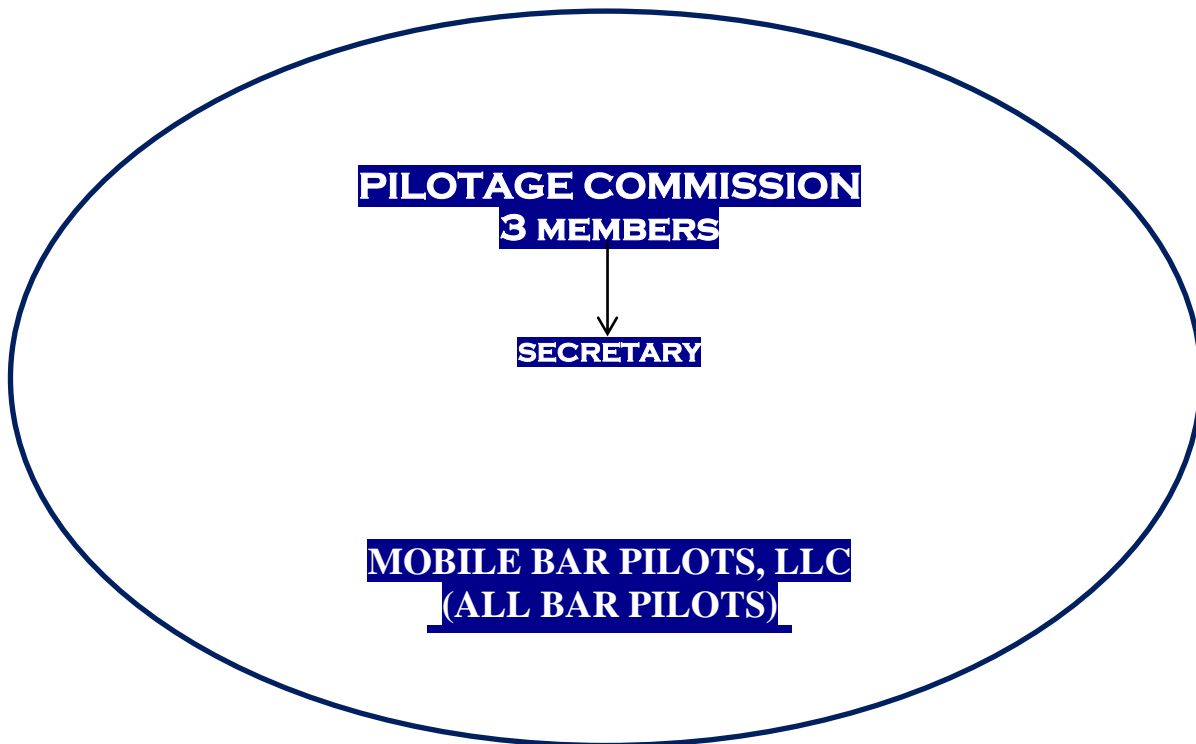
Prior Recommendation

The services of attorneys should be procured in accordance with the provisions of the *Code of Alabama 1975*, Section 41-16-72. All agreements for legal services provided by an attorney should be submitted to the Contract Review Permanent Legislative Oversight Committee, as required by the *Code of Alabama 1975*, Section 29-2-41.2(b).

Current status

There is no record of the commission having submitted its contract for legal services to the Contract Review Permanent Legislative Oversight Committee for review.

ORGANIZATION



PERSONNEL

Secretary

The commission employs a secretary, a white female, by contract. The secretary's salary has been set at \$1,650 per month by the commission. The secretary's current employment contract period is 10/1/2011 through 9/30/2012. Travel expenses may be reimbursed up to \$500. Postage expenses are reimbursed in full. The secretary has no set office hours and works on an "as needed basis."

Legal Counsel

The commission contracts with one private attorney acting as general counsel. The current contract period is 10/1/09 through 9/30/11. The hourly rate is \$165 an hour not to exceed \$20,000 annually. Expenses are not to exceed \$5,000 annually.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee 14

Operating Disbursements per Licensee - \$1,993

Notification of Commission decisions to Amend Administrative Rules

The commission complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public input was requested. Licensees are not specifically notified of proposed changes.

COMPLAINT HANDLING

The commission has not received a complaint in the last four years and has no documented procedures for handling complaints. The commission plans to address the procedures during an upcoming meeting.

Source: secretary

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

United States Coast Guard

The *Code of Alabama 1975*, Section 33-4-34 (5) requires a bar pilot to hold licenses issued by the United States (U.S.) Coast Guard. These licenses include either an unlimited second mate of oceans license or a master license of freight or motor vessel of 1,600 gross tons; and a federal license specifically for the Mobile ship channel. The U.S. Coast Guard is charged with ensuring the safety of the nation's navigable waters to support maritime industries and prevent damage to vessels, bridges, other structures, and the environment. The U.S. Coast Guard issues federal pilot's endorsements that are required for individuals that pilot United States-flagged ships sailing between U.S. ports. The regulation of federal pilotage is limited to licensing and disciplinary oversight. All state-licensed pilots are required to have a federal pilot license, serving as a national minimum standard for the state pilotage agencies. Coast Guard regulations require an annual physical examination, a written examination, and a chart sketch. There are minimal U.S. Coast Guard requirements to maintain proficiency and current working knowledge of the waters and routes worked by the licensee. The local water requirements are left to the states.

Mobile Bar Pilots, LLC

The Mobile Bar Pilots, LLC consists of all of the licensed Mobile Bay area bar pilots. The LLC coordinates the services performed by all of the licensed bar pilots and collects income arising from piloting work. Each state licensed pilot is an equal partner in the organization. The partners share expenses and compensation. One commission member must be a bar pilot and is therefore a member and partner of Mobile Bar Pilots, LLC. The State Pilotage Commission receives all of its funds through the Mobile Bar Pilots, LLC. Each new pilot is charged his branching fee through this organization. Also, all pilots license renewal fees are paid to this organization, which in turn, pays the fees to the commission. Each bar pilot is also assessed monthly fees by Mobile Bar Pilots, LLC to pay the expenses of the commission not covered by the renewal fees. The secretary for the commission is also an employee of Mobile Bar Pilots, LLC.

FINANCIAL INFORMATION

Source of Funds – Fees and assessments received from licensees. - The commission receives a \$10 branch fee when a new bar pilot is licensed. Annual license fees are limited by law to \$100 per licensed bar pilot. The license fees do not cover the operating expenses of the commission. Additional amounts needed are assessed to the licensed bar pilots, as authorized by law. The *Code of Alabama 1975*, Section 33-4-38 levies upon each licensed bar pilot any reasonable additional assessment that arises and is necessarily incurred out of the performance of its duties by the Pilotage Commission. Rather than each bar pilot separately paying fees and assessments to the commission, the Mobile Bar Pilots, LLC (a partnership of all licensees) collects the fees and assessments and pays them to the commission.

Funds/Accounts Description(s)

The commission operates from a bank checking account. The *Code of Alabama 1975*, Section 33-4-6, provides that, “. . . all moneys collected by him [the commission’s secretary] shall be deposited in a bank or banks designed by the commission and drawn out by check signed by the chairman and the secretary of the commission.”

Schedule of Fees

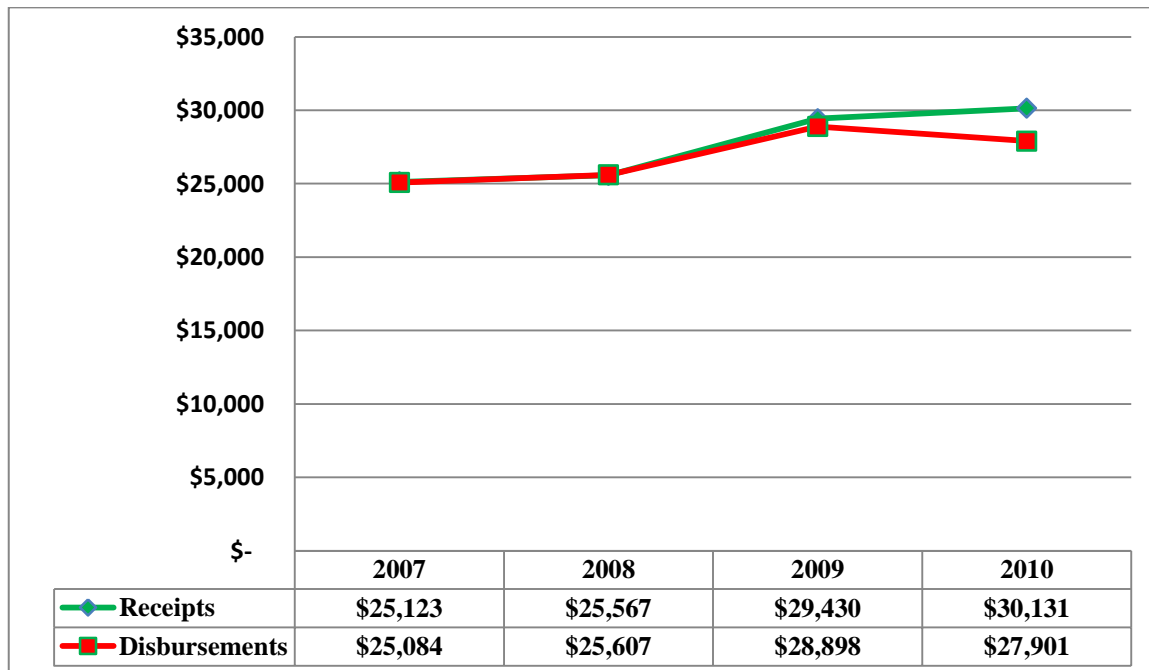
Fee	Statutory Authority <i>Code of Alabama 1975</i>	Amount Authorized \$
Branch Fee	33-4-13	10.00
License Tax	33-4-38	100.00
Assessments	33-4-38	Amount necessary, as needed
Taking and filing of bond and affidavit	33-4-13	1.00
Copies	33-4-13	.20/100 words
For certifying of copies	33-4-13	.50

Schedule of Receipts, Disbursements and Balances

October 1, 2006 through September 30, 2010

	2010	2009	2008	2007
<u>Receipts</u>				
License Tax and Fees	\$1,310.00	\$ 1,410.00	\$ 1,410.00	\$ 1,310.00
Assessments to Licensees	28,820.81	28,019.60	24,157.00	23,813.00
Total	30,130.81	29,429.60	25,567.00	25,123.00
<u>Disbursements</u>				
Employee Costs	19,957.35	21,078.17	19,421.00	18,978.65
In-State Travel	0.00	0.00	347.46	334.79
Rentals and Leases	3,223.60	3,201.84	3,094.64	3,041.04
Professional Services	2,806.81	2,192.60		915.00
Supplies, Materials and Operating Expenses	1,913.10	2,425.00	2,744.32	1,814.29
Total	27,900.86	28,897.61	25,607.42	25,083.77
Excess (Deficiency) of Receipts Over Disbursements	2,229.95	531.99	(40.42)	39.23
Reserved for End of Year Obligations	3,445.84	2,913.85	2,954.27	2,915.04
Unreserved Cash Balances at End of Year	\$5,675.79	\$ 3,445.84	\$ 2,913.85	\$ 2,954.27

Operating Receipts vs. Operating Disbursements (Chart)



QUESTIONNAIRES

Commission Member Questionnaire

Questionnaires were sent to all three commission members. Two responded.

Question #1

What are the most significant issues currently facing the Alabama State Pilotage Commission and how is the Commission addressing these issues?

Respondent 1: “Recruiting high quality pilots. Maintaining competitive cost for pilot services for Alabama ports. Insuring pilots maintain high working standards.”

Respondent 2: “None”.

Question #2

What changes, if any, to the Commission’s law are needed?

Respondent 1: “None”

Respondent 2: “None”

Question #3

Is the Commission adequately funded?

Yes	1	50.0%
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No	1	50.0%
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Question #4

Is the Commission adequately staffed?

Yes	2	100.0%
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Question #5

Does the Commission receive regular reports on the operations of the board from the chief administrative officer?

Yes	2	100.0%
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Question #6

Has the Commission experienced any significant changes to its operations?

No	2	100.0%
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Question #7

Does the Commission plan any significant changes in its operations?

No	2	100.0%
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Question #8

Are there any other comments you would like to make?

Respondent 1: “No”

Respondent 2: “None”

Licensee Questionnaire

Questionnaires were mailed to all 14 bar pilots. Five responded.

Question #1

Do you think regulation of your profession by the State Pilotage Commission is necessary to protect public welfare?

Yes	5	100.0%
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Question #2

Do you think *any* of the Commission's laws, rules, or policies, are an unnecessary restriction on the activities of your program?

Yes	1	20.0%
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No	4	80.0%
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Question #3

Do you think any of the Commission's requirements are irrelevant to the competent practice of your profession?

Yes	1	20.0%
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No	4	80.0%
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Respondent 5: "A four year college deg. should not be required to become a Mobile Bar Pilot"

Question #4

Are you adequately informed by the Commission of changes to and interpretations of commission positions, policies, rules, and laws?

Yes	4	80.0%
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No	1	20.0%
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Question #5

Has the commission performed your licensing and renewal in a timely manner?

Yes	3	60.0%
No	1	20.0%
No Opinion	1	20.0%

Question #6

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the commission doing to address the issue(s)?

Respondent 1: “Making sure the port can handle larger ships in the future. Commission puts competent people who can do the job (handle larger ships) on register to become pilots”

Respondent 2: “Branching and training qualified apprentice.”

Respondent 3: “Choosing qualified people to apprentice as pilots.

Respondent 4: “The most important issue facing us, and all state pilots across the United States, is an industry effort to undermine the compulsory nature of a state pilot. Our State Pilotage Commission could be subjected to the same pressure (financial gain vs. the safe operation of vessels in AL waters) if left unchecked. Compulsory pilotage means that we pilots, not employed by a port authority or steamship company, make the decisions in regards to the safe operation of vessels - without pressure from steamship companies, the state port authority, even potentially members of the State Pilotage Commission. I would like the State Pilotage Commission to officially recognize that safety is paramount (above all costs) and that the pilots’ voice should not be challenged in regards to the safe operation of vessels in AL waters.”

Respondent 5: “Finding qualified seamen to become future Pilot's”

Question #7

Do you think the commission and its staff are satisfactorily performing their duties?

Yes	4	80.0%
No	1	20.0%

Respondent 3: “The commission is shirking their duties by not addressing issues with some of the applicants that they picked and not taking action to remove ones that prove incompetent.”

Question #8

Has any member of the Alabama Pilotage Commission or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a commission service for you?

No	5	100.0%
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APPENDICES

Applicable Statutes

CHAPTER 4. PILOTS AND PILOTAGE.

ARTICLE 1. . STATE PILOTAGE COMMISSION.

§ 33-4-1. Composition; powers and duties generally.

There shall be a board of pilotage commissioners, to be known as the State Pilotage Commission, which shall consist of three members, one to be an official of a steamship company which maintains an office in Mobile, one to be an active bar pilot, licensed and branched by such State Pilotage Commission, and one to be a business man or in a professional occupation licensed by the State of Alabama. Such State Pilotage Commission shall have such powers and duties as are prescribed in this chapter and as may hereafter be prescribed by law.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 1; Code 1940, T. 38, § 46; Acts 1961, Ex. Sess., No. 104, p. 2024, § 1.)

§ 33-4-2. Qualifications of commissioners.

All of the members of said commission, at the time of their appointment and during their respective terms of office, shall be citizens of the United States and qualified electors of the State of Alabama.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 4; Code 1940, T. 38, § 49.)

§ 33-4-3. Terms, compensation and traveling expenses of commissioners.

The Governor shall appoint said commissioners to hold office for six years from the dates of the expiration of their respective commissions and until their successors are qualified. The commissioners shall serve without compensation, but all traveling expenses incurred by the commissioners in the performance of their duties shall be paid out of funds in the treasury of the commission.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 2; Code 1940, T. 38, § 47.)

§ 33-4-4. Bond of commissioners.

Before entering upon the duties of their office, the commissioners shall execute to the State of Alabama a bond, to be approved by the Governor, in the amount of \$1,000.00, for the faithful performance of their duties.

CREDIT(S) (Acts 1943, No. 122, p. 123, § 1; Acts 1961, Ex. Sess., No. 208, p. 2190, § 1.)

§ 33-4-5. Chair; acting chair.

The commissioners shall elect a chair to preside at its meetings who may not be the bar pilot commission member. It shall be the further duty of the chair to supervise the official conduct of all the officers and employees of the commission. The chair may administer official oaths to the officers and employees of the commission, except the other commissioners, and to all other persons in relation to the business of the commission. In the absence of the chair, the remaining commissioners shall select from their number an acting chair to hold office during the absence of the chair. The acting chair shall have all the power and authority possessed by the chair.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 5; Code 1940, T. 38, § 50; Act 2009-487, p. 888, § 1.)

§ 33-4-6. Secretary.

The State Pilotage Commission may employ a secretary, who may not be a member of the commission, and who shall be paid an annual salary set by the commission. Before entering upon the duties of office, the secretary shall execute to the State of Alabama a bond, to be approved by the Governor, in the amount of three thousand dollars (\$3,000), for the faithful performance of the duties of the office. The secretary shall safely keep and be responsible for all moneys paid into the office of the commission, and for all books and papers of the commission, and attend the meetings and keep a record of their proceedings and of the names of the commissioners present at the meetings. The secretary shall keep an account of all moneys received and paid, and once every three months prepare a statement showing all moneys received and paid for the preceding three months and the source from which the moneys were received and the purpose for which they were paid. A copy of the statement shall be given to each of the commissioners. All moneys collected shall be deposited in a bank or banks designated by the commission and drawn out by check signed by the chair and secretary of the commission.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 7; Code 1940, T. 38, § 52; Acts 1943, No. 122, p. 123, § 1; Acts 1961, Ex. Sess., No. 208, p. 2190, § 1; Act 2009-487, p. 888, § 1.)

§ 33-4-7. Meetings.

The commissioners shall meet at least once every three months at such time and place as may be by them selected and may meet oftener as business requires.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 6; Code 1940, T. 38, § 51.)

§ 33-4-8. Vacancies in office.

If a vacancy occurs from any cause in the office of a commissioner before the expiration of his term, his successor must be appointed by the Governor and hold office only for the unexpired portion of such term.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 3; Code 1940, T. 38, § 48.)

§ 33-4-9. Territorial jurisdiction.

The jurisdiction of said commission, under this chapter, shall extend over the waters of Mobile Bay, Mobile River and over all tributary streams flowing into Mobile Bay and Mobile River in which the tide ebbs and flows, extending to the outer bar below Fort Morgan, Alabama, in the Gulf of Mexico. CREDIT(S) (Acts 1931, No. 81, p. 154, § 8; Code 1940, T. 38, § 53.)

§ 33-4-10. No jurisdiction over harbor masters.

The State Pilotage Commission shall not have jurisdiction over Harbor Masters or deputy masters in any harbor or seaport in the State of Alabama. CREDIT(S) (Acts 1931, No. 611, p. 756, § 2; Code 1940, T. 38, § 54.)

§ 33-4-11. Authority to make rules and regulations, etc.

The State Pilotage Commission shall have the power and authority to make all necessary rules and regulations, regulating the piloting of ships and all watercrafts into and out of any harbor or seaport in the State of Alabama. The State Pilotage Commission shall also have the power and authority to require evidence of the physical and mental fitness of any active bar pilot at any time and to make rules and regulations regarding the physical and mental capacity of such active bar pilots. CREDIT(S) (Acts 1931, No. 611, p. 756, § 1; Code 1940, T. 38, p 55; Acts 1961, Ex. Sess., No. 104, p. 2024, § 2.)

§ 33-4-12. Civil actions to recover forfeitures.

The commissioners may, in their own names as commissioners, or in that of their chairman as such, bring civil actions for and recover any forfeiture accruing under this chapter not otherwise specifically appropriated. CREDIT(S) (Acts 1931, No. 81, p. 154, § 31; Code 1940, T. 38, § 76.)

§ 33-4-13. Fees.

The fees of the commissioners are as follows: For every branch granted, \$10.00; for taking and filing bond and affidavit, \$1.00; giving copy from records, for each 100 words, \$.20; for certifying same, \$.50. CREDIT(S) (Acts 1931, No. 81, p. 154, § 30; Code 1940, T. 38, § 75.)

§ 33-4-14. Records.

The commissioners shall preserve in a well-bound book a record of their acts and of the rules and regulations adopted by them for the direction and government of pilots. They shall also preserve upon record a list of all persons appointed pilots by them, and of those whom they may declare to have forfeited their licenses. All persons interested shall have access to and be permitted to take copies of the record, and copies from such records, certified by the chairman, are presumptive evidence of the facts stated therein. CREDIT(S) (Acts 1931, No. 81, p. 154, § 29; Code 1940, T. 38, § 74.)

ARTICLE 2. . PILOTS GENERALLY.

§ 33-4-30. Number of pilots; application, examination and certification required for license.

- (a) At no time shall there exist more apprentices or pilots than are reasonably necessary to meet the requirements of commerce, the number of apprentices and pilots to be left to the reasonable discretion of the State Pilotage Commission.
- (b) The commission shall be the sole judge of the seniority and statutory qualifications of applicants to be apprenticed and branched.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 9; Code 1940, T. 38, § 56; Acts 1990, No. 90-630, p. 1154, § 1.)

§ 33-4-31. Qualifications; age limitations for apprentices.

(a) In order to prevent delays in the apprenticeship and branching of bar pilots, the commission shall when necessary maintain a register of applicants containing no more than nine applicants for apprenticeship, who must be not less than 18 years of age.

(b) Applicants for apprenticeship from the register of applicants will be considered by the commission for apprenticeship in order of their seniority which shall be based upon the date of completion of all requirements to be a bar pilot except apprenticeship, application to be a pilot, passage of the commission's written examination and branch, which requirements are set out in subdivisions (2), (3) and (5) of Section 33-4-34.

(c) No person may commence his or her apprenticeship unless the commission finds that (i) the applicant meets all statutory requirements for apprenticeship required by subsection b above, and (ii) there is a need for an apprentice.

(d) An apprentice must, in order to complete the apprenticeship, (i) complete, to the satisfaction of the commission, at least six months as an apprentice pilot or (ii) make, to the satisfaction of the commission, at least 50 round trips with a branched pilot on vessels in Mobile Bay which are subject to the statutory requirement of compulsory pilotage, whichever first occurs.

(e) No person may be selected for apprenticeship prior to his or her twenty-first birthday.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 10; Code 1940, T. 38, § 57; Acts 1961, Ex. Sess, No. 104, p. 2024, § 3; Acts 1990, No. 90-630, p. 1154, § 1.)

§ 33-4-32. Selection of apprentices.

All apprentices, before becoming eligible for service as such apprentices, shall be selected and approved by said State Pilotage Commission.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 10-B; Code 1940, T. 38, § 58.)

§ 33-4-33. Apprentice not to be discharged except for cause; appeal of discharge.

No Mobile Bay or bar pilot apprentice shall be discharged except for cause, and any such apprentice or boatkeeper so discharged may appeal from such discharge to the commission, and should the commission upon an investigation find that such discharge was without sufficient cause, they may annul such discharge and reinstate such apprentice.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 17; Code 1940, T. 38, § 65.)

§ 33-4-34. Application for license, etc., to be in writing accompanied by certificate and affidavit; branching or licensing according to seniority.

A person, to be eligible to be branched or licensed as the next bar pilot, shall meet all of the following criteria at the time of branching or licensing:

(1) Shall be the senior apprentice, with seniority to be determined by date of satisfactory completion of all requirements to be a pilot except the written examination given by the State Pilotage Commission.

(2) Must be a citizen of the United States of America or legally present in this state.

(3) Shall be of good moral character.

(4) Shall have completed satisfactorily all requirements of the apprenticeship.

(5) Shall hold and have the following current United States Coast Guard licenses and experience:

- a. Either (i) an unlimited second mate of oceans license with one year's experience as third mate, or (ii) a master license of freight or motor vessel of 1,600 gross tons with one year's experience as master of vessels of at least 150 gross tons;
 - b. Either (i) three years' experience in a deck department capacity on one or more vessels navigating Mobile ship channel, or (ii) three years' experience at sea in a deck department capacity on oceangoing vessels of 1,600 gross tons or over, or (iii) be a graduate of a nationally recognized maritime academy holding a bachelor of science degree and have two years' experience at sea in a deck department capacity on oceangoing vessels of 1,600 gross tons or over; and
 - c. Shall hold a first class federal pilot license for the Mobile ship channel;
 - (6) Shall demonstrate, if required by the commission to do so, sufficient evidence of satisfactory experience in the safe navigation and handling of vessels, and shall pass a practical demonstration to be administered by the active Mobile bar pilots licensed by the State Pilotage Commission showing their ability to safely pilot steam and motor vessels of unlimited tonnage and tugs with tows. The demonstration shall be deemed satisfactorily completed if two-thirds majority of the active Mobile Bay bar pilots licensed by the State of Alabama shall certify such successful completion.
 - (7) Shall pass a written test administered by the commission.
 - (8) Shall make written application to be branched or licensed, accompanied by his or her affidavit that the applicant meets every statutory requirement to be branched.
 - (9) Shall have been employed in a deck department capacity on steam or motor vessels navigating either inland waters or oceans for a majority of the last five years.
 - (10) Shall be a graduate of a four-year college or university accredited by a regional accrediting organization recognized by the U.S. Department of Education.
- CREDIT(S) (Acts 1931, No. 81, p. 154, § 11; Code 1940, T. 38, § 59; Acts 1961, Ex. Sess, No. 104, p. 2024, § 4; Acts 1990, No. 90-630, p. 1154, § 1; Act 2008-92, p. 120, § 3; Act 2009-487, p. 888, § 1.)

§ 33-4-35. Examination and certification generally.

Before an applicant is branched or licensed, the commission must prepare in writing suitable questions to test his knowledge and competency to become such pilot, who, without any aid from any other person and without having been informed as to what question would be propounded to him, shall answer such questions. When the applicant has reduced his answers to writing, he shall sign the same and deliver them to one of the commissioners, and the commission must cause such answers to be copied legibly, but without the name of the applicant. The commission shall then appoint three fair, impartial and competent nautical men as a committee to examine the answers of the applicants. The applicant or applicants may name one of these, the existing pilots name another, and the commission, or a majority of them, shall name the third. The committee shall examine the copies of the answers of applicants and shall endorse upon the answer of such of the applicants as they find sufficient the following certificate: "We hereby certify that the foregoing answers are satisfactory, and that, in our opinion, the applicant making the same is well acquainted with the pilot grounds, knows how to handle both steam and sailing vessels and is competent to perform the duties of a bay or bar pilot." When such certificate is duly signed and delivered to the commission, the applicant shall be deemed qualified to receive a license.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 10; Code 1940, T. 38, § 60.)

§ 33-4-36. Apprentice pilots not required to take second examination.

No apprentice pilot who has successfully passed an examination for a Mobile Bay or bar pilot shall be required to undergo or pass another examination before being entitled to his license or status as a Mobile Bay and bar pilot, notwithstanding the board or commissioners under which said person was examined, has been abolished.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 13; Code 1940, T. 38, § 61.)

§ 33-4-37. Issuing licenses; possession and exhibition of licenses; oath of pilot.

The State Pilotage Commission shall issue to each pilot licensed and branched by them an original and a duplicate certificate of his appointment, competency and authority to act as such pilot, and as to the extent thereof, and shall reissue duplicate certificates from time to time, as the occasion may require. Such original and duplicate certificates shall be signed by a majority of the commissioners or by their chairman by their direction. Each bay or bar pilot holding a license or branch must keep upon his person, when offering his services to any vessel, his duplicate certificate and must, upon demand of the proper officer of the vessel, exhibit the same and allow such officer to inspect it.

Before issuing an original license or branch, the commissioners delivering the same to the appointee shall require him to take and subscribe in writing an oath as follows, to be administered by such commissioners: "I, A. B., do solemnly swear (or affirm) that I will faithfully and according to the best of my skill and judgment perform the duties of a pilot for the Bay and Harbor of Mobile; that I will at all times, wind and weather and health permitting, use my best exertions to repair on board all vessels which I shall see and conceive to be bound for, coming into or going out of the Harbor or Bay of Mobile, unless I am well assured that some other licensed pilot is then on board the same; that I will at all times make the best dispatch in my power to convey safely every vessel committed to my charge coming into or going out of the Bay or Harbor of Mobile; and will at all times well and truly observe, follow and fulfill, to the best of my skill and judgment, all such directions as I may receive from the commissioners of pilotage relative to things appertaining to the duty of a pilot, and I will not be a member at the same time of more than one combination or partnership of pilots. So help me God."

CREDIT(S) (Acts 1931, No. 81, p. 154, § 14; Code 1940, T. 38, § 62.)

§ 33-4-38. Levy, payment, and disposition of pilot's license tax.

There is levied upon each licensed pilot engaged in service as a pilot under this chapter a license or privilege tax in the sum of one hundred dollars (\$100) annually plus any reasonable additional assessment that arises and is necessarily incurred out of the performance by the pilot commission of its duties imposed by law, to be paid to the secretary of the commission and to be used for defraying all expenses and expenditures of the commission accruing under this chapter. The commission, by proper resolutions, may permit the tax to be paid quarterly. The privilege or license taxes paid to the secretary of the commission shall become a part of the funds of the commission and shall be deposited by the secretary and otherwise handled and disbursed, as required by the provisions of this chapter.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 43; Acts 1935, No. 9, p. 11; Code 1940, T. 38, § 85; Acts 1991, No. 91-432, p. 769, § 1; Act 2009-487, p. 888, § 1.)

§ 33-4-39. Bond of pilot--Required; amount; conditions; renewal.

Before receiving his branch, the pilot must make and deliver to the commissioners a bond payable to the chairman of the commission and his successors, in the penal sum of \$2,000.00, with surety to be approved by the commissioners, and with conditions faithfully to perform his duties as pilot; and this bond must be renewed every six years.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 15; Code 1940, T. 38, § 63.)

§ 33-4-40. Bond of pilot--Preserving bonds, etc.; new bonds; actions on bonds.

The commissioners must preserve on file all bonds and affidavits taken from pilots, and may, whenever they consider it necessary, require a new bond to be executed. The pilot's bond stands as security for any injury caused by the negligence or want of skill of the pilot, and action may be brought thereon in the name of any person aggrieved.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 16; Code 1940, T. 38, § 64.)

§ 33-4-41. Revocation or suspension of license for cause--Generally.

For any violation by any pilot of any of the provisions of this chapter, or any of the rules and regulations established by the commission under the authority conferred upon the said commission by the provisions of this chapter, or under any authority which may be hereafter conferred upon said commission, the said commission may suspend or revoke the license or branch of such pilot so violating the law or such rules and regulations of said commission. The secretary of said commission shall notify such pilot in writing of the specific charge preferred against him, specifying with reasonable certainty the law or rule or regulation violated, the manner in which the same was violated, and the time and place of such offense, and shall by direction of the commission fix the time for hearing of said charges not less than five nor more than 30 days from the date of such notice. At the time and place set forth in said notice, such pilot may appear in person or by counsel, thereupon the said commission shall hear and determine the said charges. The commission may subpoena witnesses, such subpoenas to be served under the seal of said commission, and attested by the signature of the secretary, and shall be served by the Sheriff of Mobile County, or the Sheriff of Baldwin County, according to the residence of such witnesses. The fees of the sheriff for serving such subpoenas shall be paid out of the funds of said commission.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 18; Code 1940, T. 38, § 66.)

§ 33-4-42. Revocation or suspension of license for cause--Failure of witness to answer subpoena.

On the failure to answer such subpoenas when so served, such witness shall forfeit the sum of \$50.00, for which the said commission may, in its own name, bring a civil action in a court of competent jurisdiction.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 19; Code 1940, T. 38, § 67.)

§ 33-4-43. Revocation or suspension of license for cause--Witnesses' fees and mileage.

Such witnesses shall be paid the sum of \$1.50 a day during their attendance upon such commission at such hearing, and \$.05 a mile for each mile traveled in going from their place of residence to the place of hearing and \$.05 a mile for returning. Such witness fees shall be paid out of the funds of said commission.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 20; Code 1940, T. 38, § 68.)

§ 33-4-44. Revocation or suspension of license for cause--Issuance of subpoenas in behalf of pilot.

Such pilot against whom such charges have been filed, upon depositing with the secretary of said commission an amount sufficient to cover the costs and expenses of serving such subpoenas, together with the mileage of such witnesses and an amount sufficient to cover at least three days' attendance of such witnesses, may require the secretary of said commission to issue subpoenas for witnesses in his behalf in the name of said commission, such subpoenas to be issued and served as in the case of subpoenas issued by the direction of the commission, and for failure of witnesses to attend upon being served with such subpoenas, the same penalty shall be imposed and collected as provided in Section 33-4-42.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 21; Code 1940, T. 38, § 69.)

§ 33-4-45. Revocation or suspension of license for cause--Hearings; decision of commission.

Such hearing shall be conducted under such rules and regulations as the commission may from time to time establish. The commission shall hear the testimony of the witnesses and may administer oaths to such witnesses, and false swearing, after the administration of such oath by such commission, shall constitute perjury under the laws of this state.

Said pilot may be represented by counsel at such hearing.

Upon completion of the hearing, or as soon thereafter as practicable, the commission shall render its decision, and the decision shall be by a majority of said commission.

The said hearing may be adjourned from time to time as the commission may direct, but no pilot shall be suspended until the final hearing by the commission.

CREDIT(S) (Acts 1931, No. 81, p. 154, §§22-25; Code 1940, T. 38, § 70.)

§ 33-4-46. Grounds for depriving pilot of branch.

The commission may deprive any pilot of his branch for a willful violation of his duties, or the orders or regulation of the commissioners, or for negligently losing or injuring any vessel in his charge; or when laboring under mental derangement or when so addicted to habits of intoxication as to be unfit to be intrusted with the charge of a vessel. Any pilot who fails to act as such for three months, or absents himself for 10 days at any one time from the Bay or Harbor of Mobile without leave of the commissioners, may be deprived of his branch. And if, while a vessel in the Bay or Harbor of Mobile is in charge of any civil officer by virtue of process from any court of record in this state, any pilot, with knowledge thereof, conducts or pilots such vessel out of the bay or harbor, he forfeits his branch, and is forever disqualified from acting as a pilot, and forfeits such sum of money as the jury may assess.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 26; Code 1940, T. 38, § 71.)

§ 33-4-47. Penalty for acting without license.

Any person who pilots a foreign vessel, or an American vessel under register, or any other vessel subject to the payment of pilotage fees under the provisions of this chapter, entering or leaving the Port of Mobile, in or out of the Bay of Mobile or over the outer bar thereof, without a license from the State Pilotage Commission, is guilty of a misdemeanor and is entitled to no fee or reward for such services and, upon conviction of such misdemeanor, shall be fined not less than \$50.00 and not more than \$500.00 for each offense and shall be sentenced to hard labor for the county for a period of not less than 30 days and not more than 60 days.

CREDIT(S) (Acts 1935, No. 503, p. 1083, § 1; Acts 1936, Ex. Sess., No. 42, p. 25, § 1; Code 1940, T. 38, § 73.)

§ 33-4-48. Pay of pilots--Generally.

(a) The master, owner, agent, or operator of any ship or vessel shall pay the pilot who conducts a vessel into or out of the Bay or Harbor of Mobile a fee to be fixed by the State Pilotage Commission at the following rate for actual draft of water at the time of pilotage for every vessel crossing the outer bar of Mobile Bay: Effective April 12, 2006, the sum of twenty-nine dollars (\$29) per draft foot; and effective January 1, 2010, and thereafter, the sum of thirty-one dollars (\$31) per draft foot. The minimum pilot fee shall be computed on a minimum of 15 feet regardless of whether or not the vessel has a draft of less than 15 feet at the time of pilotage.

(b) In addition to the pilotage fee based on the draft of the vessel, there shall also be paid to the pilots the following pilotage fees for every vessel crossing the outer bar of Mobile Bay: Effective January 1, 2007, for each of the vessel's maximum registered gross tons, the sum of four cents (\$.04) per ton; and effective January 1, 2008, the sum of four and one-quarter cents (\$.0425) per ton; and effective January 1, 2009, and thereafter, the sum of four and one-half cents (\$.045) per ton. The minimum pilot fee shall be computed on a minimum of 6,500 maximum registered gross tons, regardless of whether or not the vessel has a maximum registered gross tonnage of less than 6,500 maximum registered gross tons.

(c) In addition to the foregoing fees, the State Pilotage Commission shall set fees for special services rendered by the pilots to vessels which are incidental to or connected with vessels being conducted into or out of the Bay or Harbor of Mobile which include, but are not limited to, docking and undocking, going on and off drydock, turning the vessel, shifting, anchorage and stand-by, and delayed sailing.

(d) Vessels trading between any domestic port on the Gulf of Mexico and the Port of Mobile, drawing seven feet or less of water shall not be required to employ a pilot, but if a pilot is employed, the regular pilotage shall be paid. No fishing smack shall be subject to pilotage.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 32; Code 1940, T. 38, § 77; Acts 1951, No. 188, p. 449, § 1; Acts 1959, No. 333, p. 926, § 1; Acts 1967, No. 234, p. 610, § 1; Acts 1971, 1st Ex. Sess., No. 56, p. 94, § 1; Acts 1975, 2nd Ex. Sess., No. 33, p. 161, § 1; Acts 1977, No. 145, p. 208, § 1; Acts 1979, No. 79-95, p. 118, § 1; Acts 1981, No. 81-179, p. 215, § 1; Acts 1983, No. 83-500, p. 703, § 1; Acts 1988, No. 88-128, p. 183, § 3; Acts 1989, No. 89-518, p. 1064, § 1; Acts 1993, No. 93-650, p. 1124, § 1; Acts 1997, No. 97-669, p. 1292, § 1; Act 98-279, p. 457, § 1; Act 99-203, p. 261, § 1; Act 2002-342, p. 919, § 1; Act 2006-344, p. 915, § 1.)

§ 33-4-49. Pay of pilots--Time of payment.

A pilot who has brought a vessel into port is entitled to his fees before her departure from port, to be paid in advance, or security given for the payment and, on failure thereof, may refuse to carry the vessel out.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 33; Code 1940, T. 38, § 78.)

§ 33-4-50. Pay of pilots--Fees of pilots detained on vessels.

If the master of any vessel retains a pilot on board, the wind and weather permitting her going to sea, the pilot is entitled to \$50.00 for every day of such detention. If a master carries off a pilot from the Bay or Harbor of Mobile, he must pay him \$50.00 for every day of such absence and supply him with such provisions as is usual for the maintenance of masters, and first class transportation back to Mobile, Alabama, the master as well as the owner being liable therefor, unless the vessel has laid to for the space of four hours after crossing the bar, and no pilot boat appears to receive the pilot on board.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 39; Code 1940, T. 38, § 81; Acts 1959, No. 334, p. 927, § 1.)

§ 33-4-51. Pay of pilots--No discrimination or rebating of pilot's fees.

There shall be no discrimination among vessels subject to the payment of pilotage fees, and any person who rebates any pilotage fees or seeks a rebate of pilotage fees or in any manner creates or aids in creating any scheme or plan by which a discrimination is effected in favor of any vessel or the owners, masters or operators thereof shall, on conviction, have his license or branch revoked.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 42; Code 1940, T. 38, § 89; Acts 1943, No. 380, p. 357, § 1; Acts 1951, No. 188, p. 449, § 2.)

§ 33-4-52. Pay of pilots--Exemptions from payment of pilot's fees.

All vessels, whether sail, steam or propelled by any other motive power, including vessels, barges and rafts in tow, engaged in coastwise trade, including those engaged in trade or plying upon the navigable rivers of the State of Alabama, and all vessels exempt under the laws, rules or regulations of the government of the United States shall be exempt from payment of any pilotage fee whatsoever and shall not be required to have the services of a pilot in crossing the outer bar of Mobile Bay or navigating the waters of said bay or other navigable waters of the State of Alabama.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 41; Code 1940, T. 38, § 83.)

§ 33-4-53. Compulsory retirement of bar pilots.

Every bar pilot licensed and branched by the State Pilotage Commission upon reaching the age of 68 years shall be required to retire and surrender his license or branch to the State Pilotage Commission.

CREDIT(S) (Acts 1961, Ex. Sess., No. 103, p. 2023, § 1.)

§ 33-4-54. Vessels required to take pilots.

All steam or sail vessels crossing the outer bar of Mobile Bay, except those exempt under this chapter, shall be conducted, controlled or navigated by a pilot licensed by or under authority of the laws of the State of Alabama, if the services of a pilot are seasonably tendered or are seasonably available and shall be required to pay the full amount of pilotage now provided by law.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 40; Code 1940, T. 38, § 82.)

§ 33-4-55. Pilot boats must offer services to vessels nearest bar.

Every pilot boat cruising or standing out to sea must offer service of a pilot to the vessel nearest the bar, unless a vessel more distant is in distress, under penalty of \$50.00 for every neglect or refusal to approach such nearest vessel, to aid her if required, or to aid a vessel in sight showing signals of distress, and the commissioners may deprive a pilot so offending of his license.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 34; Code 1940, T. 38, § 79.)

§ 33-4-56. Delivery of orders and letters by pilot.

It is the duty of every outer-bar pilot to deliver to the master of any and every vessel approaching the Bay or Harbor of Mobile, as soon as he can board such vessel, all orders and letters which may be sent him for that purpose, on the person who requires the delivery of such letters paying or securing to the pilot \$20.00 for such service, unless the pilot so employed to deliver such orders and letters is engaged as pilot for the vessel, in which event he is entitled to \$5.00 for such service.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 35; Code 1940, T. 38, § 80.)

§ 33-4-57. Report of unlawful discharge of ballast, sweepings, rubbish, etc., in bay, etc.

Every pilot, having knowledge of the discharge of ballast, sweepings, screenings, cinders, refuse and rubbish of any kind in the Bay of Mobile or in any river emptying into the same, contrary to the law, must, as soon as practicable, give information thereof to the District Attorney of Mobile County.

CREDIT(S) (Acts 1931, No. 81, p. 154, § 27; Code 1940, T. 38, § 72.)

Commission Members

STATE PILOTAGE COMMISSION

PORT OF MOBILE

EDWARD E. FIELDS, CHAIRMAN
DWAIN C. DENNISTON
G. WILDON MARENO

JACKIE M. BUETTEL, SECRETARY

P. O. BOX 273
MOBILE, ALABAMA 36601



July 19, 2011

State of Alabama
Department of Examiners of Public Accounts
Post Office Box 302251
Montgomery, Alabama 36130-2231

To Whom It May Concern:

The Commissions of the State Pilotage Commission are as follows:

Edward E. Fields, Chairman
State Pilotage Commission
Mobile, Alabama 36606
Term of Office: March 28, 2006 - March 28, 2012
Appointed by: former Governor Bob Riley

Dwain Denniston, Commissioner
State Pilotage Commission
Mobile, Alabama 36601
Term of Office: January 31, 2008 - January 31, 2014
Appointed by: former Governor Bob Riley

G. Wildon Mareno, Commissioner
State Pilotage Commission
Mobile, Alabama 36608
Term of Office: March 28, 2006 - March 28, 2012

The above commissioners were in office during the entire examination period, as well as being the current commissioners.

Sincerely,

A handwritten signature in black ink, appearing to read "E. E. Fields", written over a horizontal line.

Edward E. Fields, Chairman
State Pilotage Commission

RESPONSE TO SIGNIFICANT ISSUES

STATE PILOTAGE COMMISSION

PORT OF MOBILE

EDWARD E. FIELDS, CHAIRMAN
DWAIN C. DENNISTON
G. WILDON MARENO

P. O. BOX 273
MOBILE, ALABAMA 36601

JACKIE M. BUETTEL, SECRETARY



October 4, 2011

Mr. John E. Norris
Director, Operational Division
State of Alabama Department of
Examiners of Public Accounts
Post Office Box 302251
Montgomery, Alabama 36130-2251

Subject: SPC Response to Significant Issues and Prior Findings

Dear Mr. Norris:

The following are our responses to your letter dated September 26, 2011.

Significant Issue 2011-01: The Commission is aware that Captain Mareno is retiring as Commissioner effective October 10, 2011. We are waiting to hear whom the Mobile Bar Pilots, LLC have selected to replace Captain Mareno as Commissioner before we write a letter with our recommendation to the Governor.

Significant Issue 2011-02: The Commission elects not to address this issue at this time.

Significant Issue 2011-03: The Commission is aware that we do not have an apprentice ready to be branched at this time. Hopefully, that situation will be resolved soon. The Commission branches pilots at the request of the Mobile Bar Pilots, LLC. We have not yet received a request from them. The Mobile Bar Pilots, LLC are the best authority on how many pilots they need and when they need them.

Prior Finding 2005-01: The Commission had a contract with our attorney during this audit period. Mrs. Buettel submitted the contract to the Senate Oversight Review Committee, but apparently did not have the proper paperwork. The Commission never heard back from the Committee. The new contract (10/1/2011 - 9/30/2013) and the proper paperwork have been completed by our attorney as best as he could, and has been submitted to the Senate Oversight Review Committee. We have not yet heard back from them.

If you have any further questions, please let me know.

Sincerely,

Edward E. Fields, Chairman
State Pilotage Commission
Post Office 273
Mobile, Alabama 36601
251-432-2639